

REMARKS

Applicants appreciate the Examiner's thorough review of the present application, and respectfully request reconsideration in light of the preceding amendments and the following remarks.

Claims 1-23 and 37-54 are pending in the present application. Several claims have been amended where appropriate to better define the claimed invention. The amended/new claims find support in the original specification and drawings. No new matter has been introduced through the foregoing amendments.

The 35 U.S.C. 103(a) rejections of all claims as being obvious over *Wen*, in view of *Straub* and further in view of *Axialis* are respectfully traversed for at least the following reasons.

A. There is no evidence of record that *Axialis* qualifies as applicable prior art.

The reference appears to be a download from a web site. There is, however, no evidence of the date the reference was published, if ever, on the web site. Although, the reference bears a copyright mark that dated back to 2002, there is, however, no evidence that the reference was actually published during the year of 2002. Even if *Axialis* was actually published during the year of 2002, there is also no evidence that it was published before October 30, 2002, the claimed priority date of the instant application.

In view of the above, Applicants respectfully submit that *Axialis*, as currently applied in the Office Action, does not qualify as applicable prior art under any provisions of 35 U.S.C. 102. Specifically, *Axialis* is not prior art under 35 U.S.C. 102(a) or (b) due to the lack of evidence that it was a printed publication. In addition, *Axialis* is not 35 U.S.C. 102(a) prior art due to the lack of evidence that it was known or used by others in this country, i.e., in the US. See *MPEP*, section 2128. The provisions of 35 U.S.C. 102(c)-(g) are not applicable to *Axialis*.

The Office is respectfully requested to furnish proof that *Axialis* qualifies as prior art under 35 U.S.C. 102. Until and unless such evidence is made available by the Office, Applicants respectfully submit that the reference is not prior art and that the 35 U.S.C. 103(a) rejections are improper and should be withdrawn.

Notwithstanding the above, and solely for the purpose of expediting prosecution, Applicants have made further amendments to clearly distinguish over the applied references, as will be discussed herein below.

B. The applied references, especially *Wen*, do not teach or suggest the feature of **independent claim 1** that “changing the icon appearance of the plurality of icons in the display system to the new icon appearance in accordance to the user inputs...”

Wen appears to teach a digital picture cropping tool that allows a user to take a personal digital picture and modify it for use as an icon on a Microsoft Windows based desktop environment. The digital picture cropping tool is needed, because most personal digital pictures are too big in size to be utilizable as icon images. Therefore, the digital picture cropping tool is taught by *Wen* to allow a user to “crop” the portion of the personal digital picture the user desires to use as a desktop icon. See *Wen* at column 4, lines 33-61. Thus, *Wen* is limited only to modifying a single desktop icon at any one time. This is the overall teaching of the *Wen* disclosure, because *Wen* is mainly concerned with allowing a user to “establish a personalized windows graphic environment” that is designed to the user’s exact specification. Thus, *Wen* only teaches, and is only concerned with, allowing a user to modify a single desktop icon at a time.

To the contrary, the claimed invention requires, among other things,

- (i) changing the at least one sample icon's appearance according to user inputs for a new icon appearance; ...and
- (ii) changing the icon appearance of the plurality of icons in the display system to the new icon appearance in accordance to the user inputs...

To read on the claim features at issue with an analogy to a Windows Desktop environment as taught in *Wen*, the reference must have taught that a user

- (i) uses the cropping tool to modify an image to obtain a desired icon appearance; and
- (ii) applies the desired icon appearance to multiple desktop icons.

Wen apparently lacks at least item (ii), because the modified/cropped image is applicable to only one icon.

This deficiency of *Wen* is not deemed curable by any other applied reference(s).

C. The applied references, especially *Straub*, do not teach or suggest the feature of independent claim 1 that “backing up display property parameter values, which are associated with a plurality of icons of the display system and which are currently set for an original icon appearance, ... if the display property parameter values are determined to be valid...”

The Office alleges that *Straub* discloses the claim feature at issue. However *Straub* merely teaches creating an interactive Windows desktop theme by downloading such a theme from a theme server, and then allowing for automatic updating of all the interactive desktop theme features. While *Straub* also mentions checking the “digital signatures” of web collection files (WCF) that contain new icon images, this teaching is irrelevant to the claimed display property parameter values. The “digital signatures” of the WCFs checked by *Straub* is well known in the art to be used in verifying the validity of the web-content data. In other words, the “digital signatures” are only read to verify that the WCFs are what they say they are, and not some malicious content roaming the Internet. In no way are the “digital signatures” checked to verify the “display property parameter values, which are associated with a plurality of icons of the display system and which are currently set for an original icon appearance” are valid or not.

Further, if the verification is passed, *Straub* proceeds to download or apply the downloaded theme, i.e., to perform an action regarding a future icon appearance. To the contrary, if the verification is passed, the claimed method proceeds to back-up display property parameter values currently set for an original icon appearance.

Thus, *Straub* is different from the claimed subject matter not only the verification action, but also the action that follows the verification. The reference does not at all teach or suggest the claim feature at issue.

This deficiency of *Straub* is not deemed curable by any other applied reference(s).

D. The applied references, especially *Straub* and *Wen*, are not properly combinable.

As noted above, *Straub* only teaches changing the entire desktop theme to a predetermined theme that is downloaded from an offsite theme server (i.e., no user icon control window is used). Therefore the nature of *Straub* is to allow a user to change the entire theme or display characteristics of the desktop environment with a single action of downloading a new desktop theme from an offsite theme server.

In contrast, *Wen* is focused on allowing a user to take personal digital pictures and crop them for replacing desktop icons one by one.

A person of ordinary skill in the art would at once envisage that the approaches proposed by *Straub* and *Wen* are entirely opposite, and would have had no incentive to combine the references, for one reference's approach would necessarily destroy the principle of operation of the other. For example, allowing a user for changing the entire desktop theme in one single step as taught by *Straub*, would not allow the user to personalize individual icons one at a time as taught by *Wen*. Thus it would not have been obvious to one of ordinary skill in the art at the time of the invention to combine the references of *Wen* and *Straub* as alleged in the Office Action.

This deficiency of *Straub* and *Wen* is not deemed curable by any other applied reference(s).

E. *Axialis* (if at all qualified as prior art) would fail to cure any of the above-noted deficiencies of *Wen* and *Straub*.

In particular, while *Axialis* appears to mention a sample icon, the reference is still similar to *Wen* in that *Axialis* is an icon modifying program for modifying a single desktop icon at a time. Therefore, *Axialis* cannot be relied on to teach the recited claim feature of independent claim 1 that "changing the icon appearance of the plurality of icons in the display system to the new icon appearance in accordance to the user inputs..." which the *Wen* reference has been explained as failing to teach, as detailed in section B above.

For any of the reasons advanced above in sections A-E, Applicants respectfully submit that independent claim 1 is patentable over the applied art of record.

Independent claim 14 is believed patentable for at least the reasons advanced in sections A-E.

Independent claim 23 is believed patentable for at least the reasons advanced in sections A-E, and also for the reason detailed in section F below.

F. Specifically, independent claim 23 requires “displaying all of the plurality of icons in the new icon appearance when the display property parameter values corresponding to the new icon appearance are within a predetermined range of values supported by the display system.”

The claim feature finds support in at least paragraph 0039 of the published application. In certain embodiments as disclosed, this requirement is important in that, e.g., certain icon sizes may be too large to be displayed in a display system. Thus the display property parameter values of the new icon appearance are compared against a predetermined range of values supported by the display system to determine whether the display system can display the icons in the new appearance. This recited feature of the claims is not taught by the “digital signature” verification in *Straub* which appears to be the most relevant teaching.

Wen, Axialis or any proper combinations of the cited prior art, also fail to teach “displaying all of the plurality of icons in the new icon appearance when the display property parameter values corresponding to the new icon appearance are within a predetermined range of values supported by the display system” as currently recited in claim 23.

Claim 23 is therefore separately patentable.

Independent claim 43 is believed patentable for at least the reasons advanced in sections A-B and D-F.

The dependent claims are considered patentable at least for the reason(s) advanced with respect to the respective independent claim(s).

Each of the rejections has been traversed. Accordingly, Applicants respectfully submit that all claims are now in condition for allowance. Early and favorable indication of allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,
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